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Special Master

JAMS

IN RE: CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION

CRAGO, INC., et al.,

Plaintiffs,

vs.

CHUNGHWA PICTURE TUBES, LTD., et al.,

Defendants.

No. 07-5944 SC
MDL No. 1917
JAMS Reference No. 1100054618

**REPORT REGARDING CASE
MANAGEMENT CONFERENCE**

This Document Relates to
ALL CASES

To the Honorable Samuel Conti, United State District Judge:

The undersigned Special Master submits this report on the case management conference which was held on May 13, 2010, in both the direct purchaser and indirect purchaser cases. The jurisdiction for that conference was vested in the undersigned by orders issued by the Court on June 16, 2008, and April 8, 2009, and more specifically in paragraph 20 on page 26 of the order dated March 30, 2010. Approximately ten plaintiff counsel attended the conference, and approximately 13 defense counsel attended.

Pleadings: All of the defendants have filed answers to the consolidated complaint in the direct purchaser action, and to the immediately prior complaint in the indirect purchaser action.

1 The indirect purchaser plaintiffs have presented a second amended consolidated
2 complaint. Defense counsel advised that they may oppose the filing of that amended complaint.
3 They are now engaged in meet and confer processes with the indirect plaintiffs' counsel, and will
4 report to the Special Master and to the Court about whether they will oppose the filing of the
5 amendment.

6 Plaintiffs' counsel does not yet know whether they will file any motions in opposition to
7 the affirmative defenses raised by defendants in their answers.

8 None of the present pleadings include any cross complaints or third party complaints, and
9 the parties advise that they presently do not contemplate any.

10 Jurisdictional Motions: Motions have been filed by certain defendants challenging
11 personal jurisdiction over them. By stipulation of the parties, those motions have been suspended
12 pending further proceedings in these cases. Any such motions presently on the docket of the
13 Court can be withdrawn without prejudice to their being renewed.

14 Attorney Representation: The Special Master was advised that attorneys for three of the
15 defendants have either withdrawn or are in the process of withdrawing. The Special Master is not
16 aware of the terms under which the attorneys have withdrawn, but assumes that there is adequate
17 information regarding how these defendants can be contacted and how documents can be served
18 upon them.

19 Partial Stay of Discovery: At the invitation of the Special Master, two representatives of
20 the Antitrust Division of the Department of Justice attended the conference to discuss the status
21 of the discovery stays presently in effect. Pursuant to the order signed on January 5, 2010, there
22 are two stays pending; see page 2 line 8 through page 3 line 4. One stay pertains to discovery
23 regarding the grand jury proceedings. That stay is being honored by the parties and does not
24 appear to be creating any material impediment to the progress of this civil litigation. The second
25 stay prohibits any deposition discovery in the civil cases until November 1, 2010, with certain
26 limited exceptions. This stay is a material factor in the slow progress of these cases. The
27 representatives of the Department of Justice were asked to comment on what action may be
28 taken regarding the November 1, 2010 stay. The representatives advised that they wanted the
stay to remain in effect, and that there was presently no basis for terminating it any sooner than
November 1. The Anti-Trust Division may also request that the November 1 stay be extended,

1 although their intentions in that regard are not yet formulated. The Special Master is to contact
2 the Anti-Trust Division in early October 2010 to ascertain their desires with respect to the stay.

3 While respecting the reasons for such a stay, and recognizing the usual priority given to
4 criminal proceedings, the Court will also recognize that the existence of this stay is a material
5 impediment to setting a schedule for the discovery, motions, pretrial and trial in these actions.

6 Discovery:

7 Because of the stay, the parties and the Special Master are able to proceed with only
8 paper discovery, primarily motions for the production of documents. It is the objective of the
9 Special Master to have such discovery completed by the time the stay on the taking of
10 depositions is lifted.

11 In regard to the production of documents, the following issues were discussed:

- 12 1. By May 24, 2010, defendants are to give to plaintiffs either verifications, or cover
13 letters from the defense attorneys, stating that they have produced to plaintiffs all
14 of the documents which the defendants have submitted to the Department of
15 Justice.
- 16 2. The parties are to begin the production of the documents which they have agreed
17 to produce by June 18, 2010. At the case management conference scheduled for
18 August 24, 2010 (see page 4, lines 24-27 below) the Special Master will set the
19 date for the completion of document production.
- 20 3. Any party which is raising objections to the production of certain documents is to
21 timely state the grounds for its objection to the other side, and hold a meet and
22 confer conference, before addressing the issues to the attention of the Special
23 Master.
- 24 4. Plaintiffs request an order compelling defendants to complete the initial disclosure
25 requirements of Rule 26 of the FRCP. The Special Master recommends that the
26 Court deny that request. The reason is that the discovery now going on between
27 the parties should supersede the necessity for also making Rule 26 disclosures.

28 Duplications: There was an extensive discussion on how both sides can avoid
unnecessary duplications, and all parties indicated their willingness to cooperate in that effort.
The success of those intentions are probably best aided by use of meet and confer procedures.

1 Motion Procedures: Procedures were established for the resolution of discovery disputes
2 by the Special Master. There must first be a meet and confer between the parties. If that does not
3 resolve the dispute, any party can raise a discovery issue with the Special Master by letter. The
4 Special Master will then decide how to handle the request procedurally, either through an
5 informal conference, briefing, or a noticed motion.

6 E-discovery: Plaintiffs are to submit to defendants a written proposal by May 24, 2010
7 regarding a protocol for the handling of e-discovery. Defendants are to review that protocol and
8 respond to plaintiffs and to the Special Master as soon as possible thereafter, recognizing the fact
9 that many defendants have separate problems and procedures with respect to their e-records.

10 Witnesses: Plaintiffs' request for an order regarding discovery from departing officers,
11 directors and managing agents, as was done in the TFT-LCD (flat panel) antitrust litigation, was
12 denied without prejudice.

13 Issues in Discovery: There was an extensive discussion of several substantive issues that
14 have arisen in the discovery. These include: (a) the time period for the relevant discovery; (b) the
15 application of the statutes of limitation; (c) the fraudulent concealment exception to those
16 statutes; and (d) the distinction between CRTs and CRT Products. The Special Master did not
17 resolve these issues because of the absence of motions or other records with respect to them. The
18 parties agreed to meet and confer regarding those issues and report to the Special Master by July
19 15, 2010.

20 Class Procedures: No steps have yet been taken with respect to the scheduling of class
21 procedures. The parties are to meet and confer and report to the Special Master regarding
22 proposed class procedures by July 15, 2010.

23 Further Case Management Conference: A further case management conference is
24 tentatively scheduled for August 24, 2010. That date is tentative, and counsel for defendants and
25 plaintiffs are to report to the Special Master by August 6, 2010, as to whether they believe that a
26 case management conference is worthwhile, and a tentative agenda for that conference.

27 Filing And Destruction Of Documents: It was agreed that when documents are filed on
28 the electronic filing system of the Court, it is not necessary or desirable that additional paper
copies be sent to the Special Master; provided however, that the Special Master does want paper
copies of documents filed by the two lead plaintiffs' counsel and by the coordinating counsel for

1 the defendants. The parties also agreed that the Special Master need not maintain files of copies
2 of documents which have been filed on the Court's electronic system.

3 The Special Master recommends that the Court approve and adopt this report.

4
5 Respectfully submitted,

6
7 May 10, 2010

8 Date

9 Charles A. Legge

Hon. Charles A. Legge

United States District Judge (Ret.)

Special Master

10
11
12 Approved and Adopted.

13
14
15 6/3/10

16 Date

17 Hon. Samuel Conti
18 United States District Judge

